

EXPERT ANALYSIS OF THE 2018 ELECTION IN OHIO HOUSE DISTRICT 6 AND  
THE IMPACT OF DEFAMATORY ADVERTISING ON THE ELECTION

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July 31, 2019

I am an expert in political campaigns in Ohio and specifically in the Cleveland, Ohio area. Since January, 2011 I have owned and operated a political consulting company called Ascendant Public Policy Group. I worked in what is now District 6 as a grassroots campaign director for State Representative Josh Mandel (R-Lyndhurst) when he ran and was successful in winning the district when his predecessor, State Rep. Jim Trakas (R-Independence) reached his term limit in 2006. I am a political science graduate of Miami University in Oxford, Ohio.

I was raised in the 6<sup>th</sup> Ohio House district, and know its voting patterns and proclivities intimately. I have worked in the campaigns and participated in its politics at the local, state, and federal level for 14 years. I did not work in the 2018 campaign of Trakas, or his opponent Michael Canty during the primary, but I did sit on a Republican Party committee that ultimately issued a dual endorsement of the two candidates. I did favor Trakas for a variety of reasons having to do with my relationships with both men, while I did not overtly support Trakas during the primary, I did participate in grassroots activities on his behalf during the General Election that he lost.

My knowledge of voting patterns of both the Republican Primary and General Election in the 6<sup>th</sup> District is of a very strong familiarity. I have been advising candidates and working on campaigns throughout the district, have relatives, clients, elected officials, and friends in the district, and am highly engaged in politics in the District.

DID THE CONSERVATIVE ALLIANCE POLITICAL ACTION COMMITTEE INFLUENCE THE GENERAL ELECTION OF 2018 IN A WAY AS TO ELECT PHILIP ROBINSON, DEMOCRAT, OVER JIM TRAKAS, REPUBLICAN?

My conclusion based on my intimate familiarity with the district and its voters, a forensic review of the facts of the race in the primary and general elections, the impact of negative and in this case, false, advertising on the election, and a comparison of voter turnout numbers over several relevant elections, is **Yes**. Not only did the Conservative Alliance Political Action (CAPAC) adversely affect Trakas' ability to win the election, the campaign of Phillip Robinson, just days before the General Election, repeated defamatory statements made about Trakas. This helped to suppress the Republican vote for Trakas, who received less of the Republican vote than at any time in his career over 5 elections in the district and its closely districted predecessor. The defamatory arguments enflamed and helped to turn out Democratic voters who based on this

information, went to the polls to vote against Trakas, helped garner Trakas less of all of the Republican, Non- Partisan, and Democratic vote than he had ever garnered prior. Moreover, Trakas struggled to raise funds for his race after the primary and struggled to attract campaign volunteers. These were all results of defamatory messaging that impugned his character and made him a candidate that some people, and enough people, would not support. All of this against his established history as one of the most prolific Republican fundraisers of his time and a candidate who counted as his attributes a base of campaign grassroots volunteers and yard sign locations of over 2,000 people during a 26- year career, beginning with his election to Independence City Council in 1991.

Facts to back up this conclusion are as follows:

#### POLITICAL ENVIRONMENT IN DISTRICT 6

Beginning with the election of Republican Mike Wise in the 1992 District 15 election, the essential make up of District 6, had voted for the Republican candidate for The Ohio House of Representatives in 13 consecutive elections with the last Republican election victory a 2016 22 point victory by Rep. Marlene Anielski (R-Walton Hills) over Phillip Robinson (D-Solon), the same candidate who defeated Trakas in 2018.

Demographic shifts have made the district slightly more Democratic at the local level, but the 2018 highly respected Ohio Manufacturers Association overview of state elections put the district at 57% generic voter index. The generic voter index is a compilation of 10 political races over several campaign cycles that study the partisan voting behavior of the residents of the district. The index is a mathematical formula that averages the votes of all voters in general elections in partisan races such as U.S. President, Congress, State House and Senate, and other state offices. What this effectively means is that any Republican candidate running for The Ohio House in 2018 would be considered to have an advantage in that over the past three elections, voters of the district had chosen a Republican candidate to a Democratic candidate by a score of 57% to 43%.

District 6 is a highly intelligent district, with one of the highest of college degree and advanced degree attainment of any legislative district in the State. It is a prosperous district, one of the wealthiest in Ohio. District 6 contains some of the highest rated public schools in Ohio, with 4 of the school districts scoring in the top 20 of all 612 school districts in the state. District 6 is considered property tax “wealthy” and as a result, derives less state funding for schools than any other district in Ohio.

Its partisan makeup is more reflective in the generic voter index as actual voting behavior is more important than voter registration. While the district has been electing local election officials who are registered Democrats, its voting behavior at the state level remained Republican.

District 6 voted for Hillary Rodham Clinton in 2016 and in 2018, was not a stronghold for President Donald Trump, whose overall approval ratings were below 50%, what is called in politics as “under water.” It is true that Republicans had a disadvantage in districts like District 6 where voters did not agree with the President, but public opinion polling shows rather convincingly that voters do not hold Trump out to be a creature of the Republican Party, but rather an elected official of his own making. His presence in politics did motivate people of both parties to come out to vote in record numbers in 2018, but it would not have held an 8-point swing to allow a candidate like Trakas to garner 49% of the vote. Both parties had well over a 70% turnout, which is essentially a wash in terms of what is known as “voter intensity” that an outside force like the top of the ticket and national forces can provide.

The District is politically a moderate district with a growing liberal undercurrent in the Lyndhurst area and the Chagrin Valley made up of Solon, Chagrin Falls, Chagrin Falls Twp., Moreland Hills, Bentleyville, Hunting Valley. Over the years, demographic changes of WASP voters have seen them leave the area with more Jewish voters living in the area. While Jewish voters are decidedly Democratic, providing 92% of the vote to Hillary Clinton in 2016, those voters represent a small percentage of the overall eligible voters of District 6 that includes over 90,000 registered voters. African-American voters, another voter group that is heavily Democratic, who provided the same vote tally to Clinton, represent only 6% of the overall voters of District 6.

#### REPUBLICAN PRIMARY VOTERS IN 2018

Republican voters in District 6 are more moderate, more educated, more prosperous than the Republican electorate in any other state legislative district in Ohio except District 1 in Central Ohio. These voters tend to be fiscally conservative and socially more moderate, although a majority of Republican Primary voters identify as pro-life on the issue of abortion.

No competitive primary for The Ohio House has taken place in District 6 since 1992 when Wise defeated a lesser known opponent, John Ontko. In 2016, The Ohio Senate District 24 held a competitive primary where former State Rep. Matt Dolan (R-Chagrin Falls) defeated State Rep. Nan Baker (R-Westlake) and State Rep. Michael Dovilla (R-Berea) and went on to win District 6 in the general election, as well as the whole of Senate District 24. The competitive primary did not see defamatory messaging coming in from outside groups, as the 2018 race saw. Third party PACs ran comparative ads against Dolan and Baker, but the ads, while negative in nature, did not have the voracity or affect that the 2018 ads did, based on voter behavior in the 2016 election.

#### BACKGROUND ON THE PLAYERS IN THE RACE FOR OHIO HOUSE SPEAKER AND THEIR RECRUITMENT EFFORTS IN DISTRICT 6.

The May 8, 2018 Republican Primary was a contest between four camps. Control of the Ohio House of Representatives Republican caucus was at stake. In February of 2017, former Ohio House Speaker helped to recruit former State Representative Jim Trakas, now a private sector consultant. Trakas made his intentions to run for his former seat in the House known in March of 2018 to local party leaders. He had been elected to City Council in 2015, and was a candidate for re-election in 2017. Due to local politics, Trakas informed Republican Party of Cuyahoga County Chairman Rob Frost of his intent to run for The House, but that he would not publicly discuss the race until after the 2017 Municipal Election.

Trakas informed Ohio House Republican Organizing Committee (OHROC) political consultants Troy Judy and Chad Hawley that he intended to run for The House in the Spring of 2017, while consulting for Ohio's largest online charter school, ECOT, The Electronic Classroom of Tomorrow. Judy and Hawley informed House Speaker Cliff Rosenberger (R-Clarksville) and Rep. Ryan Smith (R-Bidwell), the aspiring Speaker candidate whom Rosenberger had publicly endorsed over the former Speaker Householder.

In September of 2018, a Cleveland Plain Dealer story detailed campaign contribution that ECOT founder William E. Lager had made to the Ohio Republican Party and Republican Party of Cuyahoga County's state candidate fund. The story claimed that Householder was "banking" the money to support candidates for The Ohio House in the May 2018 primary, including in Cuyahoga County. Rosenberger surmised that Trakas, who had not always enjoyed a positive relationship with Householder, had been recruited by Householder in an attempt to support Householder's bid for House Speaker.

Rosenberger enlisted Cuyahoga County State Rep. Dave Greenspan (R-Westlake), a strong Smith supporter, to recruit a candidate against Trakas. By the end of September, former Bentleyville Mayor Michael Canty, a local manufacturing company owner, had agreed to run for the 6<sup>th</sup> District against Trakas. The two had enjoyed a cordial friendship prior to 2018, and Canty phoned Trakas to let him know of his intent. Shortly thereafter, Canty was promised support from OHROC, and endorsement from Rosenberger that came with financial and organizational support, and the promise of a political action committee from out of state that would attack his primary opponent so that Canty did not have to in hopes of a Canty victory in May of 2018. All of which came to fruition.

Trakas was promised support from Householder and his allies as well as being informed about Rosenberger and Smith's efforts to set up an out of state PAC that would attack him in 2018. Trakas' strategy was straightforward. Having four times been elected in the District and with extensive Republican Party relations, Trakas started out with a name recognition and organizational advantage that could overcome negative campaigning. It was also intimated that forces friendly to Householder could set up a

rival PAC that could either protect Trakas or provide negative campaign information on Canty to blunt whatever type of effort Rosenberger's allies could muster.

Effectively, the race for Ohio District 6's Republican Nomination in 2018 was a contest between Rosenberger and Smith vs. Householder and the race on the ballot, and Trakas vs. Canty.

THE CREATION OF THE CONSERVATIVE ALLIANCE POLITICAL ACTION COMMITTEE AND THE IMPORTANCE OF UNDERSTANDING ITS TRUE PURPOSE AS A NEGATIVE ADVERTISING CAMPAIGN COMMITTED TO DESTROYING THE ELECTABILITY OF PRO-HOUSEHOLDER CANDIDATES.

It is critical to understand that the CAPAC is not a traditional political action committee that functions to support ideological candidates who are in some way "conservative." In fact, the PAC was set up to purposely act as an attack mechanism against 27 Republican candidates for the Ohio House of Representatives in 2018, including against Trakas. The purpose of the PAC is not to elect anyone to office who embraced a certain philosophy of government or who supported a set of issues.

Legitimate PACs issue questionnaires, have a PAC Board that oversees donations, interviews candidates, informs candidates of issues that are important to the PAC. When you think of a PAC, you think of the Chamber of Commerce or the AFL-CIO, or a similar PAC. These legitimate PACs advocate for issues important to the donors and supporters of the PAC.

CAPAC's entire existence was to defeat Householder backed candidates in the 2018 Republican Ohio House Primaries. The PAC issued no policy statements. The PAC ran no advertising campaigns in support of any candidate. It is my opinion, and the Court will hopefully find out in this trial, that the PAC was set up by Speaker Clifford Rosenberger at his direction and knowledge.

Any educated voter would want to know, why is a Virginia based PAC that had just been invented and nobody had ever heard of, advertising heavily in Ohio and against a handful of people running for The Ohio House? In my opinion, backed up by the very small world of Republican political consultants and their informed observations, CAPAC was a straw man that was invented for the sole purpose of defeating candidates through very negative, and in this case, defamatory, messaging. I do not use the term defamatory loosely, and will explain why I use that term with supporting facts. The entire purpose of the PAC was to do the "dirty work" so that OHROC and its preferred candidates, would not have to look like they got their hands dirty by attacking, and in the case of Trakas and Householder, rather viciously, fellow Republican candidates.

Republican voters do not generally embrace candidates who heavily criticize their fellow Republican. In 1980, former California Governor Ronald Reagan coined the phrase that created his "11<sup>th</sup> Commandment" of politics- "Thou shall not speak ill of thy fellow Republican." That axiom is ingrained in Republican politics. It is for this reason, in my

informed opinion, that CAPAC exists as an entity at all: to bludgeon Republican candidates like Trakas, who supported Larry Householder for Ohio House Speaker. I would note that CAPAC played no role in the general election, but the same political consultants that ran CAPAC used the PAC to run negative primary races for Oklahoma Republican Legislative Primaries later on in 2018. CAPAC is a mystery attack PAC whose goal is to defeat certain Republicans not aligned with whomever employs them in their activities. They are a means to an end, not ideological, not conservative, shadowy, and they exist to be the bad guy. In this case, they were fatal to Republican chances to win general election victories as well, ultimately defeating Trakas in Cuyahoga County (their true intent) and contributing to the defeat of three additional Republicans in less GOP friendly districts in Franklin County.

The PAC used a Cleveland area phone number on its literature. It rang to an answering machine that was unmonitored. The Alliance's Ohio address, to a shopping center in Upper Arlington where the PAC had no physical office nor employee or volunteer presence. Both were provided to give the illusion of a legitimate campaign organization, but their own campaign filings prove that nobody actually worked for the PAC, it was a pass-through entity to spend money to defeat Householder supporters in Ohio in 2018.

Lastly, to the question of why would a Virginia PAC spend nearly \$1 million in the State of Ohio Republican primaries, the only logical conclusion is that Rosenberger and Smith effectively controlled the spending decisions of this PAC. Who would benefit from Householder aligned candidates losing? Only Ryan Smith and his ally Rosenberger. CAPAC can only be understood through this prism, and it is important to assert these truths to understand why they had to go the extra mile and assure the defeat of Trakas.

#### WHY TRAKAS WAS SINGLED OUT FOR SPECIAL BRUTAL TREATMENT BY CAPAC.

CAPAC is the subject of this lawsuit, but also an ongoing lawsuit in Perry County Ohio Court of Common Pleas brought by Larry Householder that also alleges defamation. It is important to understand that CAPAC reserved its most negative, and in the case of Trakas and Householder, defamatory, attacks for these two candidates, with Householder suffering particularly hard hitting and over the top saturation ads in an attempt to defeat him in 2018.

If you understand that the entire PAC was set up to defeat Larry Householder and candidates who aligned with him, then you can understand the voracity of the campaign against Householder and Trakas. Because this suit only involves Trakas, it is my informed opinion that Trakas was targeted for a particularly nasty treatment by CAPAC at the behest of Rosenberger and Smith, who undoubtedly played the key roles in targeting what races.

Trakas earned a reputation as a savvy legislator and political talent. He served as House Majority Whip while Householder was Speaker between 2001-2004. He had been the Republican Party Chairman of Cuyahoga County, and as such, had access to



organizational and financial support that benefited House Republicans. Trakas was either the largest single donor to the House Republican Campaign Committee in 2002 and 2004, or a close second, aside from Householder himself.

Two people that Ryan Smith did not want to see seated in the 133<sup>rd</sup> General Assembly were Householder and Trakas. Both veterans who understood legislative practice, parliamentary procedure, enjoyed positive relations with the lobbying community that provided much of the financial resources of Ohio politics. A return to the Statehouse of Jim Trakas was not looked upon as anything that could benefit Ryan Smith.

But this did not just apply to a May Republican Primary. The Ohio House Republicans enjoyed a 66-33 majority in the House during the 132<sup>nd</sup> General Assembly of Ohio. If Trakas was so wounded by a brutal primary that he could not be elected in November, all the better. That would be one less vote for Larry Householder (whose own district was so Republican that he could not lose the General Election). One vote matters in Republican Caucus politics in the Ohio House. Indeed, not having Trakas around would be very advantageous to Smith.

#### THE 2018 REPUBLICAN PRIMARY AND ITS AFTERMATH

The heart of this lawsuit is the allegation by Trakas that CAPAC's campaign was not just negative in nature, but defamatory, and so defamatory as to permanently wound Trakas with enough voters that he could not be elected to The Ohio House. Indeed, that is exactly what happened, and in my expert judgement, Trakas was able to win the primary but lose the general election based on the willful disregard for the truth that CAPAC employed to beat him.

Trakas and Canty squared off in a primary election decided 57% to 43% for Trakas on May 8, 2018. Canty earned the support of various business groups that were aligned with Smith for the House Speakership, and earned support from local Republicans that he had worked with as Bentleyville Mayor and as a donor to Republican causes. Canty had a voter appeal having worked in the manufacturing industry.

But Trakas had been elected four times in the district and prior to 2018, was a very popular figure. In 2000, he received more votes in an uncontested Republican Primary than any Republican in Ohio. In 2006, after having withdrawn as a candidate for Ohio Secretary of State at the behest of the Ohio Republican Party, Trakas' name appeared on the ballot, and he actually garnered more votes in District 6 than the actual candidate, Greg Hartmann of Cincinnati.

A reasonable question would be, well if CAPAC's messaging was so negative and defamatory (to be analyzed shortly) how could Trakas win a primary, and if he won the primary, how could CAPAC be responsible for his loss in November?

Trakas earned the Republican Primary victory for a number of reasons:

1. Trakas was a better candidate that had extensive Republican relationships. 10,547 people voted in the 2018 Republican Primary in 2018. Over a 25-year political career, and having served as County GOP Chairman and State Representative, Trakas actually knew thousands of Republican Primary voters personally. A percentage of these voters actually knew the man personally, and would not believe the negativity that CAPAC brought out.

Quite simply, enough people actually knew Trakas and reasoned that the CAPAC campaign against him, based on their own interactions with the man, could not be true. Indeed, who can really be that bad? The voracity of the CAPAC campaign was so negative that in some circles that I have knowledge of, it actually backfired as Republican primary voters do not like to see such negative attacks on their fellow Republican. Trakas knew enough voters personally, had personal relationships with other elected officials and organizations that helped propel him to victory.

However, while this can work in a small GOP primary with a conservative voter base for just over 10,000 voters, over 60,000 people voted in the General Election of 2018, and the same ability to succeed did not exist to overcome the attacks that were so prominent in voters' minds.

2. Trakas has an engaging personality and has always been known as an aggressive campaigner. His campaign messaging also spoke to issues that mattered more to Republican primary voters than Canty's did. Trakas identified conservative social message, a strong educational message, and a compelling personal story to counteract the negative campaign against him.

Canty's message was coordinated by OHROC. It was a more cautious message and he never criticized downstate Republican policies. Trakas was critical of state education policy on school funding and the high cost of college tuition, something Canty never mentioned. Fundamentally, Trakas appealed to issues that the voters seemed to care about and Canty ran a generic downstate Republican campaign.

Larry Householder's team is acknowledged as one of the better political teams in Ohio Republican politics. They worked with Trakas and helped him to target the right voters who were planning to vote in the election and to help him craft the message that would be winning in the District based on Trakas' own beliefs. Trakas' literature was of a higher quality than Canty's, who always looked "cookie cutter" in its generic message and visuals. Trakas' was bold and elicited the feelings of the district towards the political situation in Columbus; Cleveland had been taken advantage of by the GOP politicians in Columbus and Cleveland needed a champion to speak up for its citizens. Trakas believed that and so did many GOP primary voters.

3. Voter backlash. As stated in 1 above, the voracity of the attacks on Trakas were so prevalent and downright mean spirited that GOP stalwarts felt sympathy for one of their own, Trakas, and rallied to him. CAPAC's campaign backfired with some of the more



loyal Republican party voters who recoil from negative campaigning against fellow Republicans.

4. While Trakas and Canty ran largely positive campaigns, seldom mentioning each other, both CAPAC and the Growth and Opportunity PAC (GOPAC), aligned with Householder, ran negative campaigns against Trakas and Canty respectfully.

GOPAC's campaign against Canty was a more effective negative message because it was more believable, in my estimation. Canty had literally been illegally taking money from the Village of Bentleyville through reimbursements for unapproved and in many cases, blatantly political purposes. GOPAC's mailers on the topic were very effective and cited accurate newspaper coverage of the well documented events. It should be noted that Canty won the Village of Bentleyville, where he had served as mayor for 10 years, with exactly 3 more votes than Trakas. Those who knew him best did not want to see him elected to the Statehouse.

Another PAC, Citizens Policy Institute, ran district cable television ads against Canty for 5 days before the primary election based on his having to reimburse the Village of Bentleyville for the misappropriation of expenses and for taking large government financed loans and grants in his private business.

On Tuesday, May 8, 2018, Trakas was nominated by the Republican Party to be its nominee for The Ohio House in November, but his fate was already sealed. As will be explored in the next section, many voters other than GOP primary voters saw, heard, and read the defamatory statements and false allegations against Trakas. The most educated Ohio House District in Ohio had long memories and Trakas would not recover from the onslaught that was poured upon him by CAPAC, some of which was repeated by his Democratic Party foe, Phillip Robinson.

#### NEGATIVE VS. DEFAMATORY – WHAT I LOOK FOR AS A POLITICAL CONSULTANT

To understand why Trakas lost the election, it is important to know the difference between traditional negative messaging and outwardly defamatory statements. As a professional practitioner of campaigns day in and day out, it is my job to know the difference and to advise my clients to use negative messages where needed and to always tell the truth in political campaigns.

I have a reputation to uphold. If I ruin a candidate because of my advice, I may not work again in politics, and it is my livelihood. I value my name and reputation and the candidates that I advise do not employ tactics as the CAPAC did in 2018.

Because CAPAC is an out of state entity, it did not have the same approach as I have to political races. In my opinion, they employed a slash and burn technique. They had a lot of money to spend and spent it with the express desire to destroy Trakas, something that they certainly did. Their reputation did not matter to them, because theirs was an all or nothing venture. Either they defeated Trakas and the Householder backed

candidates or they went home. They were not long-term players in politics, and it is my opinion, they were never set up to be anything other than a vehicle to destroy candidates. Their work in Oklahoma was similar to Ohio, spend a lot of money at the behest of mystery donors and mystery backers and then run.

To the heart of this lawsuit, this Court should know that there is a big difference between a traditional comparison or negative campaign and the defamatory campaign that CAPAC perpetrated upon Trakas.

CAPAC employed a negative campaign against Trakas, that I would argue was completely legitimate and accepted in politics. These are negative messages that I would say were fair game and not defamatory:

\*Trakas voted for a six cents per gallon gas tax phased in over several years in 2001.

\*Trakas voted to cut the state's income tax by a percentage point, and at the same time, voted to raise the sales tax.

\*Trakas did resign from his position as Executive Director of the State Board of Cosmetology after an Investigator General report was issued critical of his tenure.

\*Trakas worked for ECOT, the online school eventually put out of business by the State of Ohio, who the state accused of mismanaging public school dollars over enrollment disputes.

These statements all have truth to them, but the way they were portrayed certainly made these issues into potential scandals. By way of example:

\*CAPAC ignored the fact that Trakas' vote was on a mass overhaul of state tax policy that included an income tax cut of 2005 and simply stated that Trakas had voted to increase the sales tax. The sales tax was an offset of \$1 billion for a \$2 billion income tax cut, a net cut of \$1 billion amid large scale tax overhaul. Trakas actually voted to reduce the tax burden on Ohioans.

\*Trakas did vote for a gas tax increase, the first one in over a decade to fund Ohio's aging infrastructure. The Ohio Taxpayers Association endorsed the vote as they believe it a user tax and it was phased in. CAPAC did not provide that background.

\*Trakas did resign from his job, but he was actually fired by an aide to Governor John Kasich. The IG report that was "critical" of his tenure, actually cleared him of any wrong doing but stated that he had overstepped his authority. Trakas never had the chance to rebut the report, complying with the political wishes of the Governor. He was specifically cleared of any wrong doing and the report clearly stated that he did not violate any law or rule of the State of Ohio.

\*Trakas was a policy analyst and for six months, a lobbyist for ECOT. He had no decision-making role and did not work for the school when the State of Ohio accused the school of not being able to prove that school children were not participating in online

class room activities. To state that he was somehow involved with the difficulties that the school had with the State Department of Education would be intellectually dishonest. As John Kasich said of his tenure at Lehman Brothers while campaigning for Governor in 2010, "I ran a two-person office in Westerville, Ohio. Blaming me for the collapse of Lehman Brothers is like blaming a car dealer for the collapse of GM."

These are examples of television, radio, and direct mail to voter messages that are negative and intended to cast doubt on Trakas' character. In my assessment, these statements, while misleading and without context, are a classic negative campaign and would not be defamatory because they can be construed as mostly true.

However, CAPAC went over the line with another series of attacks in direct mail, television, and radio. These are examples that I would never use in a campaign, and as a consultant who knows the difference between "negative" and "defamatory" believe ultimately killed the chances that Trakas had to be elected to The Ohio House because their usage was so prevalent and the message so distorted that they are not truthful. For Trakas, he could not overcome these messages, seared into voters' minds by a lengthy ad campaign.

\*Using the term "scam" to describe Trakas on multiple occasions. For the record, Webster's defines the word scam as "a dishonest scheme, a fraud." Or "a swindle." This connotation is purposely used to describe Trakas even though he has never been involved in any attempts to defraud or swindle anyone as a private citizen or public official. "Scam" is used in the television, radio, and direct mail marketing campaign that CAPAC paid for.

CAPAC's own opposition research confirmed that Trakas has never been involved or even accused of operating a scam. In my estimation, they chose to use that word with a reckless disregard for the truth. I would never use a term like that against a candidate like Trakas. If a candidate had been involved with or alleged to be involve with a true attempt to defraud, you bet I would use that word. CAPAC's own opposition research document proves that they knew categorically that Trakas had never been involved in any scams, and thus it is defamatory to describe Trakas as someone involved in a scam.

\*Trakas' involvement with Provost Academy. Among the most egregious and provably defamatory statements that CAPAC makes is in print, radio, and television ads concerning Trakas' tenure as School Board President of Provost Academy. CAPAC's own opposition research cites newspaper articles, primarily from the Columbus Dispatch that relate the trouble the school had with the State Department of Education.

The contents of all three radio, television, and print advertising that CAPAC used to defame Trakas are all disprovable by simply reading the Dispatch article. CAPAC, with a willful disregard for the truth, purposely distorted the article so as to allege that Trakas personally profited from the school. That he personally stole \$800,000 from the school.

That he personally directed the school to steal money from state taxpayers and not educate children.

None of those accusations are remotely true and are specifically disproven by the very article CAPAC sites and the facts of the case. Nowhere in the article does it even suggest that any of what CAPAC asserts as fact is even suggested. Direct quotes from the article are purposely taken out of context and cast as dark and dastardly acts, when in fact the very news article disproves the quotes, because they were manufactured and cherry picked.

Political consultants have an obligation to their clients to get a message out without lying. This line of attack on Trakas is a bold faced and provable lie. In my estimation, this line of attack alone was enough to make Trakas unelectable in November to an audience of Independent and Democratic voters who heard and saw these defamatory statements, and enough Republicans who did believe them and would not vote for Trakas, their own party's nominee.

For the record, I pride myself on using newspaper clips to prove a point. The Dispatch and other news stories actually disprove CAPAC's point, only the voters did not have access to the original news story. But CAPAC did, they knew better, and chose to lie to District 6 voters in an effort to defame Trakas so that he could not be elected to The Ohio House. And it worked.

\*Cronies with Larry Householder, who was investigated by the FBI for wrongdoing. This line of printed, audio, and televised attack on Trakas is a provable defamatory statement because CAPAC's own opposition research disproves all of these statements connecting Trakas to any of the 2002-04 era accusations leveled at Larry Householder.

This is a classic attempt to smear Trakas by attempting to tie him to the perceived sins of Larry Householder. This is a very dishonest rewriting of history. Trakas was not only uninvolved with any of the accusations, never proven, against Householder, according to CAPAC's own opposition research, Trakas had a falling out with Householder over the investigation, and Householder actually stripped Trakas of his Ohio House Committee assignments over Trakas' perceived disloyalty to Householder.

CAPAC's own opposition research proves that Trakas was completely uninvolved with any of the accusations of the time. CAPAC also knew that Householder was never charged and the accusations were unproven. Yet, they repeated accusations and used Trakas' name liberally interspersed in the ads so that Trakas' name would be associated with an investigation that he had nothing to do with.

This technique of smearing Trakas with accusations against Householder when CAPAC actually possessed factual information disproving this argument is a willful disregard for the truth. It is fair game to tie one politician to another. It is not fair game to know that Trakas was completely uninvolved in any investigation and tie his name to it.

Lastly, by using the term “crony” defined as “informal and derogatory” close friend or companion. The news articles of the day specifically disprove that Trakas was a close friend or companion of Householder’s at the time and actually prove the opposite. CAPAC knew this and used it any way, which is a reckless disregard for the truth.

I hope that you can see that I understand the difference between negative and defamatory statements in politics. As an expert, I pride myself in not only not crossing the line, but never coming close to it.

In the next section, I will prove how these statements led to the election of Phil Robinson to State Representative in District 6 in November of 2018.

#### REACHING MILLIONS OF VOTERS, GOP DONORS, AND POSIONING THE NOVEMBER ELECTION – CAPAC’S ROLE IN DEFEATING TRAKAS IN 2018

The CAPAC broadcast media campaign consisted of television and radio media buys on the most popular radio station in Cleveland that reaches all aspects of District 6 as well as much of Ohio and parts of Canada. The television ads were run on the most popular cable television station for news in District 6. Other radio ads were run on a station catering to Christian and conservative voters. This combination of activity in radio and television ads thoroughly saturated the marketplace with defamatory messaging about Trakas and voters made up their mind early on that they could not vote for Trakas.

Candidates can overcome negative messages in politics. Mike DeWine was attacked as not being conservative enough in the May 2018 GOP primary by Lt. Governor Mary Taylor. But these were traditional negative attacks and not defamatory in nature, so DeWine was able to unite the Republican Party and win the General Election. Matt Dolan was able to overcome a negative GOP primary attack in 2016 and go on to win District 24 that includes Ohio House District 6. Jim Trakas was not able to overcome the negativity of the primary because of the defamatory and false messages that CAPAC put out about him.

Using the word “scam,” “crony,” and alleging that the man stole \$800,000 are disqualifying attributes for voters.

CAPAC’s public opinion poll of March, 2018 Question Q tells this story with factual confidence. 71% of Republican Primary voters would not vote for a candidate who was accused of stealing public money from a charter school as well as be accused of willfully profiting from the school. If 71% of GOP Primary voters would not vote for a candidate who stole \$800,000 from children’s education, then it can only be concluded that not less than 71% of General Election voters would have the same reaction.

CAPAC pushed this defamatory statement to thoroughly saturate the airwaves and mailboxes of District 6. Just because the primary ended on May 8, 2018 doesn’t mean that the messaging did not have the desired affect of defeating Trakas in the Fall Election. Non partisan and Democratic voters heard those same ads. For over one

month the ads ran on the most popular cable news television station, the most listened to radio station in Ohio, and Christian radio.

The similar direct mail campaign landed in District mailboxes for six weeks. Democrats and Independents had access to that defamatory information. They read the material that CAPAC sent out, as did their Republican voters in the same house or neighborhood.

Trakas won the primary, but was so wounded that he could not win the General Election. The false accusations against him were so well publicized and so thoroughly saturated District 6, a large percentage of voters had already made up their minds about Trakas before he could even campaign in the General Election.

On August 14, 2018, Trakas received the results of a poll conducted by the Growth and Opportunity PAC about the District 6 race and related to me the facts of the public opinion poll. Trakas was losing 42% to 41% to Phil Robinson, a virtually unknown candidate who at the time had raised less than \$5,000 to run for State Representative. Moreover, a key indicator of electability is a candidate's percentage of favorable vs unfavorable name recognition, a common polling technique that gauges voter opinion of a candidate. Robinson was virtually unknown, but Trakas was in the "under water" category meaning he had 60% name recognition with voters in District 6, but 29% of those voters had a negative opinion of him, while only 19% had a positive opinion of him.

Robinson had never run a single ad nor campaigned seriously at the time of this poll. Robinson touted a similar poll to elected officials and donors in District 6 that showed an identical result.

This is a smoking gun that proves to me that the attacks on Trakas were lasting and permanent. The die was cast from the primary that Trakas could not overcome these attacks.

Having worked this District since the 2006 election, I have never seen public opinion polling in the Summer of an election year where the Republican candidate was not leading, and usually by a large margin. In 2016, against the same opponent, Rep. Anielski received 61% of the vote to Robinson's 39%. In 2014, Anielski garnered 59% of the vote, in 2012 Anielski garnered 56% of the vote. Trakas, in a similar district and without CAPAC's defamatory statements earned no less than 52% of the district wide vote and as much as 62% of the vote over 4 elections.

Defamatory statements have a practice of suppressing the vote of the natural base of support, Republicans. No exit polling exists on District 6, but it is telling that just in the City of Solon, Trakas received just 39% of the vote, while prior, his lowest tally was 48% in 2004.

To further prove the point, Trakas' volunteer recruitment for the General Election was substantially ineffective. He was not able to generate many volunteers for the race, only



put up 200 yard signs, and he and his campaign manager knocked on 27,000 district doors, mostly by themselves. This is in sharp contrast to his former self who consistently was one of the most successful grassroots politicians on the Republican side during his time in office, who had over 2000 yard sign locations and could rely on dozens of volunteers every week to help out in his electoral efforts.

As telling was the dearth of campaign donations from Greater Cleveland sources, and specifically, the Republican Finance Committee, a group of 125 Republican leaning business people who help candidates fund campaigns. Trakas, the former 9-year party Chairman, received 7 donations from this group of donors, including from the current Party Chairman's father. Donors would not return his phone calls and did not attend his fundraising events.

The defamatory campaign against Trakas threw a cold blanket on his ability to fund and manage an effective race for the General Assembly. Trakas went into the Fall with a substantial disadvantage that he could not recover from. Had he been able to raise the funds to combat negative perceptions, he may have been able to have won, but the dearth of support was noticeable and completely related to the negative and defamatory campaign of CAPAC in 2018.

But CAPAC's defamatory messages were on display in the General Election. In addition to raising the same negative, but not defamatory messages, Phil Robinson repeated the claims that CAPAC had made about Trakas "stealing" \$800,000 from state taxpayers. In a series of internet ads that ran on social media, Robinson quoted CAPAC's primary statements. I do not know how many voters these statements reached, but it ran for 5 days on social media as popup ads, Facebook, Twitter, and local news sources. Trakas sent a cease and desist request from Mr. Horvath, and the ads were withdrawn. It does illustrate how powerful of a message that Robinson would choose to print CAPAC's ads virtually verbatim and how effective that line of defamatory messaging really is.

Robinson sent out one direct mail piece to Democratic and Independent voters and then a second direct mail piece that was negative about Trakas to the same audience. He ran internet ads about specific issues to targeted voters by way of videos on Facebook and Twitter. He was outspent 2 to 1 yet prevailed in the election in a Republican leaning district. Trakas sent out 8 fliers and ran internet ads on social media. The bulk of Trakas' financial support came from organizations and labor unions that had endorsed him. He had less than 300 individual donors, after being one of the most prolific fundraising legislative candidates from 1998-2006.

Trakas lost the election by 1614 votes, less than 1% of the vote. A turn of just 808 Republican and Republican leaning voters would have seen him win the election. Out of over 60,000 votes cast, this small amount of voters sealed Trakas' fate. The CAPAC ads had widespread play throughout the District. Robinson repeated those same ads for a crucial week two weeks before the election. Trakas could not raise enough money to

get his full message out. Public opinion polling furnished by CAPAC tell the story that the false material that they published about Trakas would impeach his ability to get elected to office, and the CAPAC polling was correct. A state legislative district that had voted for Republican candidates reliably for 26 years voted Democratic. All of this caused by demonstratable false issues raised and pushed by CAPAC that impugned the reputation of Jim Trakas so that he could not be elected to the Ohio House in 2018. He was able to win overwhelmingly only in his home town where they actually know him but the rest of the district did not.

## CONCLUSION

Jim Trakas should have prevailed and be serving as a State Representative today from District 6 had it not been for demonstrably false and malicious statements that CAPAC made about him that influenced strongly the General Election of 2018. I am a practitioner of politics, and know the difference between a negative campaign, and one that crosses the line into defamation of character.

My strong background in District 6 campaign politics provides a unique perspective about the district and its voters. No voter that I know would elect a person who is accused of stealing \$800,000 from the taxpayers, who perpetrated scams upon the people, who was a crony and associated with an FBI investigation into public corruption, or who robbed children of their education. That was the person that District 6 voted against in 2018. I happen to know for a fact that that is not Jim Trakas. He was wronged and CAPAC knew better and chose to use lies and innuendo to defeat the man.